

1 this witness.

2 THE COURT: You may step down.

3 Call your next witness.

4 MS. EPLEY: State calls Roger Bailey.

5 (Witness sworn.)

6 ROGER BAILEY,

7 having been first duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MS. EPLEY:

10 Q. Hi, there.

11 A. Hi.

12 Q. Please state your name for the record.

13 A. Roger Bailey.

14 Q. Mr. Bailey, where do you work?

15 A. Harris County District Attorney's Office.

16 Q. And with our office, do you have a title?

17 A. I am a criminal investigator.

18 Q. So, what does a criminal investigator with the
19 Harris County District Attorney's Office do?

20 A. Just about anything the District Attorney
21 needs done in a official capacity: Gather information,
22 locate witnesses, things of that nature, serve
23 subpoenas.

24 Q. How long have you been with the DA's office?

25 A. Thirteen years.

1 Q. Before that, what did you do?

2 A. I worked in a couple different law enforcement
3 agencies here in Texas.

4 Q. All told, how long have you been a police
5 officer?

6 A. Twenty-five years, roughly.

7 Q. Investigator Bailey, how did you become
8 involved with this case?

9 A. I was contacted by an Assistant District
10 Attorney to perform a function related to this matter.

11 Q. This gentleman here, Aaron Burdette?

12 A. Yes.

13 Q. What did he ask you to do?

14 A. He asked me to take some buccal swabs from
15 multiple defendants in this case.

16 Q. Do you know the procedure we go about in order
17 to get a buccal swab from someone?

18 A. Yes. I have done that on numerous occasions.

19 Q. How does it start?

20 A. Pursuant to the request, depending on whether
21 the individual has consented or there is a court order,
22 we proceed to make contact with the defendant and
23 extract the material from the inside of the mouth with a
24 Q-tip, basically.

25 Q. Well, that last part is how you go about

1 getting the actual buccal swab, right?

2 A. Yes.

3 Q. You said buccal or buccal?

4 A. I probably don't say it right.

5 Q. Are we okay with me calling it a buccal swab.

6 A. Yes.

7 Q. In general, not specific to this case, when
8 you go to the buccal swab, how did do you do it? You
9 said with a Q-tip, right?

10 A. Basically after making contact with the
11 individual or taking the swab from them, it's basically
12 a long Q-tip with a wooden handle. You insert that into
13 their mouth. You rub it on the lining of their cheek.
14 You take two of those, right side and left side and you
15 just submit them to the lab for testing.

16 Q. When we say "Q-tip," we don't mean the thing
17 you buy at CVS, right?

18 A. Not exactly. The end of it looks like a
19 Q-tip. It is a wooden -- more of a medical type
20 instrument, a wooden, long-handled Q-tip.

21 Q. Are they prepackaged and sterile, for example?

22 A. They are presealed, prepackaged.

23 Q. After swabbing the inside of the individual's
24 mouth twice, what do you do with the swabs?

25 A. Place them in an approved container. Mark

1 them. Seal the container. And submit it to the
2 corresponding appropriate crime lab.

3 Q. In regards to this case, do you know what
4 individuals gave a buccal swab?

5 A. Mr. Akers (sic).

6 Q. Do you know about Brshai Peters, Jasmine
7 Stelly and Norris Briscoe?

8 A. Yes, I do.

9 Q. Do you know whether or not buccal swabs were
10 obtained from all four individuals?

11 A. Yes, they were.

12 Q. Who were they obtained by?

13 A. Myself.

14 Q. Specific to Mr. Aker, do you recall on which
15 day you received consent from the defendant?

16 A. June 2nd, 2011.

17 MS. EPLEY: At this time the State would
18 ask that the Court take judicial notice to the fact that
19 the consent form is in the clerk's file.

20 THE COURT: Okay. The Court will take
21 such notice.

22 MS. EPLEY: And, in an abundance of
23 caution, also signed by the defendant.

24 THE COURT: Okay. No objection?

25 MR. MARTIN: None, Your Honor.

1 THE COURT: Okay.

2 Q. (BY MS. EPLEY) On June 2nd, after you
3 received a signed consent form from the defendant, were
4 you able to make contact in order to get the swab?

5 A. Yes, I was.

6 Q. Where was that?

7 A. It was here in the courtroom.

8 Q. Did you follow the procedures that you
9 outlined above?

10 A. Yes.

11 Q. And by "above," I mean when you spoke about
12 the swab and the sterile compartment that has been
13 sealed, marked and put into evidence.

14 A. Yes, I did.

15 Q. Do you have that package here today?

16 A. I do.

17 MS. EPLEY: May I approach, Your Honor?

18 THE COURT: You may.

19 (Pausing.)

20 Q. (BY MS. EPLEY) Okay. This was the only thing
21 in here, correct?

22 A. Yes.

23 Q. All right. Investigator, I'm showing you
24 what's been marked as State's Exhibit 77. Do you
25 recognize this package?

1 A. Yes, I do.

2 Q. How do you recognize it?

3 A. As the envelope I submitted at the crime lab
4 pursuant to this case.

5 Q. Is this the package that you marked and
6 sealed?

7 A. Yes.

8 Q. Do you see your markings on it?

9 A. Yes, I do.

10 Q. Can you identify them for me quickly?

11 A. My signature is down here on the bottom.

12 Q. I see that the package has been opened. When
13 was it opened?

14 A. Yes, ma'am. Just a couple minutes ago before
15 I entered the courtroom.

16 Q. Other than the tear in the front that you just
17 said that you had opened, do you know if this package
18 has been opened since the last time you saw it? For
19 example, has the lab got into it?

20 A. Yes. I seal it at the top and they open it at
21 the bottom and reseal it.

22 Q. Is State's Exhibit 77 in the same or
23 substantially the same condition as you last saw it but
24 for the exceptions you just told us about?

25 A. Yes.

1 MS. EPLEY: Tender to opposing counsel
2 for objection.

3 MR. MARTIN: We have no objections.

4 THE COURT: Is that 77?

5 MS. EPLEY: State offers State's Exhibit
6 77.

7 THE COURT: Then it is admitted without
8 objection.

9 MS. EPLEY: Thank you, Your Honor.

10 Q. (BY MS. EPLEY) Investigator, what does
11 State's Exhibit 77 contain?

12 A. The buccal swabs from Mr. Akers.

13 Q. After having received the buccal swab on
14 June 2nd, 2011, where did you take it?

15 A. To the Houston Police Department crime lab at
16 1200 Travis, Houston, Texas.

17 Q. Other than dropping it off on that day and
18 bringing it to court today, did you have any other
19 contact with this package?

20 A. No.

21 Q. Do you see the person whose buccal swab you
22 took? Do you see Mr. Aker in the courtroom?

23 A. Yes.

24 Q. Could you please identify him by his position
25 in the courtroom and an article of clothing?

1 A. He's sitting on the table with the three
2 individuals and he has the pin-striped gray suit with
3 the white shirt.

4 MS. EPLEY: May the record reflect he has
5 identified the defendant?

6 THE COURT: It will.

7 MS. EPLEY: No further questions.

8 THE COURT: Mr. Martin.

9 MR. MARTIN: We have no questions.

10 THE COURT: Okay. Thank you, Mr. Bailey.

11 THE WITNESS: You're welcome, Your Honor.

12 THE COURT: Call your next witness.

13 MS. EPLEY: Jennifer Clay.

14 THE COURT: Jennifer Clay.

15 (Witness sworn.)

16 THE COURT: Ms. Epley.

17 MS. EPLEY: Thank you, Your Honor.

18 **JENNIFER CLAY,**

19 having been first duly sworn, testified as follows:

20 **DIRECT EXAMINATION**

21 **BY MS. EPLEY:**

22 Q. Hi.

23 A. Hi.

24 Q. Please introduce yourself to the jury.

25 A. My name is Jennifer Clay. I'm employed with